IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12691 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJENDRAGIRI SOMGIRI GOSAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12691 of 2001

MR UM SHASTRI for Petitioner No. 1

Mr.Mehta,AGP for Respondent No. 1-3

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 11/02/2003

ORAL JUDGEMENT

Rule. Mr.Mehta, Ld.AGP waives service of rule on behalf of respondents. With the consent of parties matter

is taken up for final hearing today.

2. The only question involved in this petition is that the petitioner is denied compassionate appointment on the ground that the income of the family of the deceased employee exceeds limit of Rs.1,000/-p.m. Mr.Mehta, Ld.AGP appearing on behalf of respondents has made statement on the basis of parawise comments received by him that the income of the employee is computed at Rs.1030/-p.m. comprising Rs.762/-pm as monthly pension and Rs.268/-p.m. as income of agriculture. He submitted that since the income is exceeding Rs.1,000/- the application of the petitioner is not considered for compassionate appointment. In my view no detailed discussion is required since the case of the petitioner is covered by the decision of this court dated 29.1.03 in the case of CHHAGANBHAI GOVINDBHAI MEVADA Versus STATE OF GUJARAT (SCA No.10021/01) where the view is taken that while computing the income of the family of the deceased employee the income of family pension is required to be excluded and applying the same analogy to the facts of the present case, if monthly pension income of Rs.762/is excluded from full income of Rs.1030/-, the income of of the family of the deceased would go below Rs.1,000/-pm and therefore the decision of the authority not to consider compassionate appointment to the petitioner on the said ground would be illegal and deserves to be quashed.

3. In view of the aforesaid discussion, the petition is allowed and the decision of the respondent authorities of denying consideration for compassionate appointment to the petitioner on the ground that the income exceeds Rs.1,000/- is quashed and set aside. The respondents are directed to consider the case of the petitioner for compassionate appointment keeping in view the other aspects and that the income of family of the deceased falls within the prescribed limit of Rs.1,000/- and the decision shall be taken in accordance with law preferably within a period of three months from the date of receipt of writ of this court.

4. Petition is allowed to the aforesaid extent. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

11.2.03 (JAYANT PATEL,J)